

MARTHA G. BRONITSKY, SBN 127583  
CHAPTER 13 STANDING TRUSTEE  
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UNITED STATES BANKRUPTCY COURT  
NORTHERN DISTRICT OF CALIFORNIA

In re: Chapter 13  
ANNA MARIA BORQUEZ CASE NO. 10-46902 MEH 13  
Debtor, **COMPLAINT TO RECOVER FUNDS OVERPAID  
THROUGH CHAPTER 13 PLAN PURSUANT TO 11  
U.S.C. §542**

\_\_\_\_\_  
**MARTHA G. BRONITSKY, CHAPTER 13 STANDING TRUSTEE**

Plaintiff  
vs.

**JPMORGAN CHASE BANK, NATIONAL ASSOCIATION**

Defendant  
\_\_\_\_\_

COMES NOW, MARTHA G. BRONITSKY, Chapter 13 Standing Trustee,  
hereafter "Plaintiff", and files this Complaint to Recover Funds  
Overpaid Through Chapter 13 Plan against JPMorgan Chase Bank, National  
Association in the amount of \$3,694.28.

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2. The Plaintiff is Martha G. Bronitsky, Standing Chapter 13 Trustee for the Oakland Division of the Northern District of California, United States Bankruptcy Court.
3. Defendant is a creditor in the Chapter 13 Bankruptcy of Anna Maria Borquez ("Debtor") filed in the Oakland Division of the Northern District of California, United States Bankruptcy Court, served through its Officer, Managing or General Agent pursuant to Federal Rule of Bankruptcy Procedure 7004(h).

4. On June 17, 2010, the Debtor filed this Chapter 13 Bankruptcy and is represented by Patrick L. Forte.
5. On October 27, 2010, the Chapter 13 Plan ("plan") was confirmed. (Doc. #24).
6. On July 27, 2010, JPMorgan Chase Bank, National Association ("Defendant") filed a secured claim listing \$42,800.87 in pre-petition mortgage arrears. (Claim #8).
7. Defendant's claim for arrears was not listed in the Debtor's plan.
8. The Plaintiff distributed \$3,694.28 to Defendant on its claim.
9. The funds distributed to Defendant must be returned to the Plaintiff to ensure that all administrative claims are paid through the plan.

1 10.The funds distributed to the Defendant constitute property of the  
2 bankruptcy estate pursuant to 11 U.S.C. §541.

3 11.Plaintiff, as Chapter 13 Trustee, has the right and the duty to  
4 recover property of the estate held by a creditor, as this  
5 assists the Debtor in the performance of her plan. 11 U.S.C.  
6 §1302(b)(1)(4).

7 12.The Plaintiff, as Chapter 13 Trustee, is accountable to the  
8 estate for all property received. 11 U.S.C. §704(a)(2).

9 13.The Defendant is required to turnover the funds to the Trustee  
10 unless of inconsequential value to the estate. 11 U.S.C. §542.

11 14.The funds are of consequential value to the estate because they  
12 are needed to pay other allowed claims that must be paid in full  
13 through the Chapter 13 Plan.

14 **COUNT 1**

15 15.The allegations in the previous paragraphs are hereby restated.

16 16.The Plaintiff seeks turnover of \$3,694.28 distributed to the  
17 Defendant pursuant to 11 U.S.C. §542.

18 17.The Plaintiff is entitled to judgment in the amount of \$3,694.28  
19 against the Defendant.

20 **PRAYER FOR RELIEF**

21 Wherefore, the Plaintiff prays that the Defendant be served with  
22 citation, and that the Plaintiff recover judgment as set forth above  
23 and any other relief the court deems just and proper.

24  
25 RESPECTFULLY SUBMITTED

26 May 15, 2014  
DATE

/s/Martha G. Bronitsky 5909  
Martha G. Bronitsky, Esq.  
Chapter 13 Standing Trustee